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May 22, 2007

Dear Xxxxx:

This letter is in response to your letter dated September 8, 2006, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is currently contemplating the sale of merchandise to customers over the internet and ask for clarification on our responsibilities to charge and collect the local portion of the sales tax.

ABC is a national retailer with locations in thirty four states, including Illinois. If we were to begin selling our merchandise on a website, with sales accepted at our corporate office located in CITY/STATE, what would we be required to collect for local tax? Inventory would not be pulled from stores or warehouses in Illinois and all shipments would be made by a common carrier.

For example, if we sell to a customer located in local jurisdiction 'A' but only have a brick & mortar store in local jurisdiction 'B', do we only charge the state rate or do we have an obligation to also charge local jurisdiction 'A's' rate? Would your answer change if the customer placed the order in a web kiosk at the store located in local jurisdiction 'B' but had it shipped to their home in local jurisdiction 'A'?

Please, if you require additional information, don't hesitate to call me. Thank you in advance for your prompt attention to our request.

DEPARTMENT'S RESPONSE:

In general, the imposition of the various local sales taxes in Illinois takes effect when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See for example 86 Ill. Adm. Code 270.115(b). The local tax rate, if any, is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from an out-of-State location or from another Illinois location is immaterial for purposes of the imposition of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax imposed in the jurisdiction where the purchase order is accepted will be incurred.

If a purchase order is accepted outside the State, but the property being sold is located in an inventory of the retailer which is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. In situations in which the retailer has nexus, but both the purchase order acceptance and the location of the property being purchased are outside of the State of Illinois at the time of the sale, such sales would only be subject to the Illinois Use Tax at the rate of 6.25%.

Although the regulation cited above (86 Ill. Adm. Code 270.115) deals with the municipal home rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk